



Federal Communications Commission
Washington, D.C. 20554

September 22, 2009

DA 09-2091

Tony S. Lee, Esq.
Caryn G. Pass, Esq.
Grace H. Lee, Esq.
VENABLE LLP
575 7th Street, N.W.
Washington, DC 20004

Re: Indian Springs School
Educational Broadband Service Station WND280

Dear Counsel:

On September 15, 2009, Indian Springs School (Indian Springs) filed a request¹ to withdraw an informal request for Commission action² it had filed in connection with an application for consent to a long-term *de facto* transfer lease arrangement for Educational Broadband Service Station WND280.³ For the reasons stated below, we grant the Withdrawal Request.

On August 5, 2009, Indian Springs and Clearwire Spectrum Holdings II, LLC (together with its parent corporation, Clearwire corporation, Clearwire) filed the Lease Application.⁴ Indian Springs and Clearwire represented that consent to the Lease Application would “provide [Clearwire] with access to spectrum to build and operate a broadband system . . . and assist [Indian Springs] with providing educational service and meeting its educational service requirements.”⁵ On August 26, 2009, in connection with the Lease Application, Indian Springs filed the Request for Review.⁶ Utopian Wireless Corporation (Utopian) filed a response on September 4, 2009.⁷ On September 3, 2009, Clearwire filed a response indicating its desire to have the Lease Application withdrawn unless and until Indian Springs and Utopian resolved certain issues.⁸

¹ Motion to Withdraw Informal Request for Commission Action, Indian Springs School (filed Sep. 15, 2009) (Withdrawal Request).

² Informal Request for Commission Action – Request for Review of Lease Agreement Terms (filed Aug. 26, 2009) (Request for Review).

³ File No. 0003921977 (filed Aug. 5, 2009) (Lease Application).

⁴ *Id.*

⁵ Lease Application, Description of Transaction and Public Interest Statement.

⁶ Request for Review.

⁷ Response to Informal Request for Commission Action– Request for Review of Lease Agreement/ Utopian Request for Immediate Action and Letter Order, Utopian Wireless Corporation (filed Sep. 4, 2009).

⁸ Response of Clearwire Corporation (filed Sep. 3, 2009)

Tony S. Lee, Esq., *et al.*

On September 15, 2009, Indian Springs filed the Withdrawal Request.⁹ On September 16, 2009, Indian Springs supplemented its Withdrawal Request to provide a copy of the settlement agreement between itself and Utopian, as well as the affidavit required by Section 1.935(a) of the Commission's Rules.¹⁰

We have reviewed the Withdrawal Request and find that Indian Springs has provided a copy of the agreement between itself and Utopian and made the certifications required by Section 1.935(a) of the Commission's Rules.¹¹ Furthermore, both Utopian and Clearwire have made the certifications required by Section 1.935(b) of the Commission's Rules.¹² In conjunction with its certification, Clearwire now asks that the Lease Application be expeditiously processed.¹³ We also find that withdrawal of the Request for Review would be in the public interest because it would terminate litigation concerning the Lease Application and could facilitate the provision of broadband and educational services.

Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.935 of the Commission's Rules, 47 C.F.R. § 1.935, that the Motion to Withdraw Informal Request for Commission Action filed by Indian Springs School on September 15, 2009 IS GRANTED, and the Informal Request for Commission Action – Request for Review of Lease Agreement Terms filed by Indian Springs School on August 26, 2009 IS DISMISSED with prejudice.

⁹ Withdrawal Request.

¹⁰ Affidavit in Support of Motion to Withdraw Informal Request for Commission Action, Indian Springs School (filed Sep. 16, 2009). Attached to the affidavit was a copy of "Settlement and Mutual Release Agreement" (Settlement Agreement) between Indian Springs and Utopian.

¹¹ 47 C.F.R. § 1.935(a).

¹² Affidavit of Rudolph J. Geist in Regards to Indian Springs Schools' Withdraw of Informal Request for Commission Action, Utopian Wireless Corporation (filed Sep. 17, 2009); Request for Withdrawal and Declaration, Clearwire Corporation (filed Sep. 17, 2009).

¹³ Request for Withdrawal and Declaration, Clearwire Corporation (filed Sep. 17, 2009) at 1.

Tony S. Lee, Esq., *et al.*

IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.935 of the Commission's Rules, 47 C.F.R. § 1.9030, that the licensing staff of the Broadband Division SHALL PROCESS the application for consent to a long-term *de facto* transfer lease arrangement for Educational Broadband Service Station WND280 (File No. 0003921977), in accordance with this letter and the Commission's Rules and policies.

These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau

cc: Indian Springs School
Attention: ET Brown
190 Woodward Drive
Indian Springs, AL 35124

Clearwire Corporation
Attention: Nadja S. Sodos-Wallace
815 Connecticut Avenue, N.W., Suite 610
Washington, DC 20006

Rudolph J. Geist
Chairman and CEO
Utopian Wireless Corporation
7910 Woodmont Avenue, Suite 1400
Bethesda, MD 20814